

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:04-CR-210

v.

HON. ROBERT HOLMES BELL

CHARLES MARCUS PICKETT,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #59). Based on a review of defendant's motion, the Sentence Modification Report, submission by counsel on behalf of the defendant, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced on May 9, 2005, to 120 months custody after pleading guilty to being a Felon in Possession of a Firearm in violation of 18 U.S.C. §922(g). The offense carries a statutory maximum sentence of 10 years. On April 7, 2009, the defendant's term of custody was reduced to 96 months following the filing of a Rule 35(b) motion.

Because defendant possessed the firearm in connection with the commission of

another offense, i.e., possession with intent to distribute cocaine base, the guideline range under the amended guideline calculation is 130 to 162 months. However, as was the case at the time of the original sentencing, the statutorily authorized maximum sentence of 10 years is the guideline sentence. Since Amendment 706 does not result in a lower guideline range, defendant is not eligible for a sentence reduction under 18 U.S.C. §3582(c)(2) and USSG §1B1.10.

DATED: October 20, 200

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE